

AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1385

**Introduced by Assembly Members Garrick, Sharon Runner, and
Spitzer**
**(Coauthors: Assembly Members Berryhill, Fuller, *Gaines*, *Maze*,
Nakanishi, and Parra)**

February 23, 2007

An act to amend Sections 12810, 13202.5, 40000.13, 42009, and 42010 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1385, as amended, Garrick. Vehicles: DUI: penalties.

(1) Existing law provides that a violation of the Vehicle Code is an infraction unless otherwise provided.

This bill would provide that a person operating a motorized scooter while under the influence of an alcoholic beverage or a drug, upon conviction, is guilty of a misdemeanor. By changing this violation to a misdemeanor, the bill would change the penalty thereby imposing a state-mandated local program.

(2) Existing law provides that certain violations of the Vehicle Code that are committed within a highway construction or maintenance area during specified times or a Safety Enhancement-Double Fine Zone are subject to a fine enhancement.

This bill would subject a person under the age of 21 years, who is convicted of driving with a blood alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, or 0.05 percent or greater by weight, to the fine enhancement.

(3) Existing law provides that for a person under the age of 21 years, but 13 years of age or older, who is convicted of certain specified offenses would have his or her driving privileges suspended for one year. If that person does not have the privilege to drive, the Department of Motor Vehicles would delay issuing the privilege to drive to him or her for one year subsequent to the time when he or she becomes legally eligible to drive.

This bill would provide that those persons, if convicted of driving with a blood alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, would be subject to the above penalty.

(4) Existing law provides that a violation of the provision prohibiting a person under the age of 21 years from driving with a blood alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, would not result in a violation point count.

This bill would repeal that exception.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12810 of the Vehicle Code is amended
- 2 to read:
- 3 12810. In determining the violation point count, the following
- 4 shall apply:
- 5 (a) A conviction of failure to stop in the event of an accident in
- 6 violation of Section 20001 or 20002 shall be given a value of two
- 7 points.
- 8 (b) A conviction of a violation of Section 23152 or 23153 shall
- 9 be given a value of two points.
- 10 (c) A conviction of reckless driving shall be given a value of
- 11 two points.
- 12 (d) (1) A conviction of a violation of subdivision (c) of Section
- 13 192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision
- 14 (b) of Section 21651, subdivision (b) of Section 22348, subdivision

1 (a) or (c) of Section 23109, or Section 31602 of this code, shall be
2 given a value of two points.

3 (2) A conviction of a violation of subdivision (a) or (b) of
4 Section 23140 shall be given a value of two points.

5 (e) A conviction of a violation of Section 14601, 14601.1,
6 14601.2, 14601.3, or 14601.5 shall be given a value of two points.

7 (f) Except as provided in subdivision (i), any other traffic
8 conviction involving the safe operation of a motor vehicle upon
9 the highway shall be given a value of one point.

10 (g) A traffic accident in which the operator is deemed by the
11 department to be responsible shall be given a value of one point.

12 (h) A conviction of a violation of Section 27360 or 27360.5
13 shall be given a value of one point.

14 (i) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision
15 (b) of Section 40001 shall not result in a violation point count
16 being given to the driver if the driver is not the owner of the
17 vehicle.

18 (2) A conviction of a violation of paragraph (1) or (2) of
19 subdivision (b) of Section 12814.6, subdivision (a) of Section
20 21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, or
21 26707 shall not be given a violation point count.

22 (3) A violation of subdivision (d) of Section 21712 shall not
23 result in a violation point count.

24 (4) A violation of Section 38301.3 shall not result in a violation
25 point count.

26 (j) A conviction for only one violation arising from one occasion
27 of arrest or citation shall be counted in determining the violation
28 point count for the purposes of this section.

29 SEC. 2. Section 13202.5 of the Vehicle Code is amended to
30 read:

31 13202.5. (a) For each conviction of a person for an offense
32 specified in subdivision (d), committed while the person was under
33 the age of 21 years, but 13 years of age or older, the court shall
34 suspend the person's driving privilege for one year. If the person
35 convicted does not yet have the privilege to drive, the court shall
36 order the department to delay issuing the privilege to drive for one
37 year subsequent to the time the person becomes legally eligible to
38 drive. However, if there is no further conviction for an offense
39 specified in subdivision (d) in a 12-month period after the
40 conviction, the court, upon petition of the person affected, may

1 modify the order imposing the delay of the privilege. For each
2 successive offense, the court shall suspend the person's driving
3 privilege for those possessing a license or delay the eligibility for
4 those not in possession of a license at the time of their conviction
5 for one additional year.

6 As used in this section, the term "conviction" includes the
7 findings in juvenile proceedings specified in Section 13105.

8 (b) Whenever the court suspends driving privileges pursuant to
9 subdivision (a), the court in which the conviction is had shall
10 require all driver's licenses held by the person to be surrendered
11 to the court. The court shall within 10 days following the conviction
12 transmit certified abstract of the conviction, together with any
13 driver's licenses surrendered, to the department.

14 (c) (1) After a court has issued an order suspending or delaying
15 driving privileges pursuant to subdivision (a), the court, upon
16 petition of the person affected, may review the order and may
17 impose restrictions on the person's privilege to drive based upon
18 a showing of a critical need to drive.

19 (2) As used in this section, "critical need to drive" means the
20 circumstances which are required to be shown for the issuance of
21 a junior permit pursuant to Section 12513.

22 (3) The restriction shall remain in effect for the balance of the
23 period of suspension or restriction in this section. The court shall
24 notify the department of a modification within 10 days of the order
25 of modification.

26 (d) This section applies to violations involving controlled
27 substances or alcohol contained in the following provisions:

28 (1) Article 7 (commencing with Section 4211) of Chapter 9 of
29 Division 2 of, and Sections 25658, 25658.5, 25661, and 25662 of,
30 the Business and Professions Code.

31 (2) Division 10 (commencing with Section 11000) of the Health
32 and Safety Code.

33 (3) Section 191.5, paragraph (3) of subdivision (c) of Section
34 192, subdivision (c) or (d) of Section 192.5, and subdivision (f)
35 of Section 647 of the Penal Code.

36 (4) Section 23103 when subject to Section 23103.5, Section
37 23136, Section 23140, and Article 2 (commencing with Section
38 23152) of Chapter 12 of Division 11 ~~of this code~~.

1 (e) Suspension, restriction, or delay of driving privileges
2 pursuant to this section shall be in addition to any penalty imposed
3 upon conviction of a violation specified in subdivision (d).

4 SEC. 3. Section 40000.13 of the Vehicle Code, as amended
5 by Section 5 of Chapter 614 of the Statutes of 2006, is amended
6 to read:

7 40000.13. A violation of any of the following provisions is a
8 misdemeanor, and not an infraction:

9 (a) Section 16560, relating to interstate highway carriers.

10 (b) Sections 20002 and 20003, relating to duties at accidents.

11 (c) Section 21200.5, relating to riding a bicycle while under the
12 influence of an alcoholic beverage or a drug.

13 (d) Section 21221.5, relating to operating a motorized scooter
14 while under the influence of an alcoholic beverage or a drug.

15 (e) Section 21651, subdivision (b), relating to wrong-way driving
16 on divided highways.

17 (f) Section 21655.9, subdivision (c), relating to illegal use of
18 decals, labels, or other identifiers.

19 (g) Section 22520.5, a second or subsequent conviction of an
20 offense relating to vending on or near freeways.

21 (h) Section 22520.6, a second or subsequent conviction of an
22 offense relating to roadside rest areas and vista points.

23 (i) This section shall remain in effect only until January 1, 2011,
24 or only until the date that the Secretary of State receives the notice
25 from the Director of Transportation as described in Section 5205.5,
26 whichever occurs first, and as of that date is repealed.

27 SEC. 4. Section 40000.13 of the Vehicle Code, as amended
28 by Section 6 of Chapter 614 of the Statutes of 2006, is amended
29 to read:

30 40000.13. A violation of any of the following provisions is a
31 misdemeanor, and not an infraction:

32 (a) Section 16560, relating to interstate highway carriers.

33 (b) Sections 20002 and 20003, relating to duties at accidents.

34 (c) Section 21200.5, relating to riding a bicycle while under the
35 influence of an alcoholic beverage or ~~any~~ a drug.

36 (d) Section 21221.5, relating to operating a motorized scooter
37 while under the influence of an alcoholic beverage or a drug.

38 (e) Section 21651, subdivision (b), relating to wrong-way driving
39 on divided highways.

1 (f) Section 22520.5, a second or subsequent conviction of an
2 offense relating to vending on or near freeways.

3 (g) Section 22520.6, a second or subsequent conviction of an
4 offense relating to roadside rest areas and vista points.

5 (h) This section shall become operative on January 1, 2011, or
6 on the date that the Secretary of State receives the notice from the
7 Director of Transportation as described in Section 5205.5,
8 whichever occurs first.

9 SEC. 5. Section 42009 of the Vehicle Code is amended to read:

10 42009. (a) For an offense specified in subdivision (b),
11 committed by the driver of a vehicle within a highway construction
12 or maintenance area, during a time when traffic is regulated or
13 restricted through or around that area pursuant to Section 21367,
14 when the highway construction or maintenance is actually being
15 performed in the area by workers acting in their official capacity,
16 the fine, in a misdemeanor case, shall be double the amount
17 otherwise prescribed. In an infraction case, the fine shall be one
18 category higher than the penalty otherwise prescribed by the
19 uniform traffic penalty schedule established pursuant to Section
20 40310.

21 (b) A violation of any of the following provisions is an offense
22 which is subject to subdivision (a):

23 (1) Section 21367, relating to regulation of traffic at a
24 construction site.

25 (2) Article 3 (commencing with Section 21450) of Chapter 2
26 of Division 11, relating to obedience to traffic devices.

27 (3) Chapter 3 (commencing with Section 21650) of Division
28 11, relating to driving, overtaking, and passing.

29 (4) Chapter 4 (commencing with Section 21800) of Division
30 11, relating to yielding the right-of-way.

31 (5) Chapter 6 (commencing with Section 22100) of Division
32 11, relating to turning and stopping and turn signals.

33 (6) Chapter 7 (commencing with Section 22348) of Division
34 11, relating to speed limits.

35 (7) Chapter 8 (commencing with Section 22450) of Division
36 11, relating to special traffic stops.

37 (8) Section 23103, relating to reckless driving.

38 (9) Section 23104, relating to reckless driving which results in
39 bodily injury to another.

40 (10) Section 23109, relating to speed contests.

1 (11) Section 23136, relating to persons under 21 years of age
2 driving with a blood alcohol concentration of 0.01 percent or
3 greater.

4 (12) Section 23140, relating to persons under 21 years of age
5 driving with a blood alcohol concentration of 0.05 percent or
6 greater.

7 (13) Section 23152, relating to driving under the influence of
8 alcohol or a controlled substance, or a violation of Section 23103,
9 as specified in Section 23103.5, relating to alcohol-related reckless
10 driving.

11 (14) Section 23153, relating to driving under the influence of
12 alcohol or a controlled substance, which results in bodily injury
13 to another.

14 (15) Section 23220, relating to drinking while driving.

15 (16) Section 23221, relating to drinking in a motor vehicle while
16 on the highway.

17 (17) Section 23222, relating to driving while possessing an open
18 alcoholic beverage container.

19 (18) Section 23223, relating to being in a vehicle on the highway
20 while possessing an open alcoholic beverage container.

21 (19) Section 23224, relating to being a driver or passenger under
22 21 years of age possessing an open alcoholic beverage container.

23 (20) Section 23225, relating to being the owner or driver of a
24 vehicle in which there is an open alcoholic beverage container.

25 (21) Section 23226, relating to being a passenger in a vehicle
26 in which there is an open alcoholic beverage container.

27 (c) This section applies only when construction or maintenance
28 work is actually being performed by workers, and there are work
29 zone traffic control devices, traffic controls or warning signs, or
30 any combination of those, to notify motorists and pedestrians of
31 construction or maintenance workers in the area.

32 SEC. 6. Section 42010 of the Vehicle Code is amended to read:

33 42010. (a) For an offense specified in subdivision (b) that is
34 committed by the driver of a vehicle within an area that has been
35 designated as a Safety Enhancement-Double Fine Zone pursuant
36 to Section 97 and following of the Streets and Highways Code,
37 the fine, in a misdemeanor case, shall be double the amount
38 otherwise prescribed, and, in an infraction case, the fine shall be
39 one category higher than the penalty otherwise prescribed by the

1 uniform traffic penalty schedule established pursuant to Section
2 40310.

3 (b) A violation of any of the following provisions is an offense
4 that is subject to subdivision (a):

5 (1) Chapter 3 (commencing with Section 21650) of Division
6 11, relating to driving, overtaking, and passing.

7 (2) Chapter 7 (commencing with Section 22348) of Division
8 11, relating to speed limits.

9 (3) Section 23103, relating to reckless driving.

10 (4) Section 23104, relating to reckless driving that results in
11 bodily injury to another.

12 (5) Section 23109, relating to speed contests.

13 (6) Section 23136, relating to persons under 21 years of age
14 driving with a blood alcohol concentration of 0.01 percent or
15 greater.

16 (7) Section 23140, relating to persons under 21 years of age
17 driving with a blood alcohol concentration of 0.05 percent or
18 greater.

19 (8) Section 23152, relating to driving under the influence of
20 alcohol or a controlled substance, or a violation of Section 23103,
21 as specified in Section 23103.5, relating to alcohol-related reckless
22 driving.

23 (9) Section 23153, relating to driving under the influence of
24 alcohol or a controlled substance, which results in bodily injury
25 to another.

26 (10) Section 23220, relating to drinking while driving.

27 (11) Section 23221, relating to drinking in a motor vehicle while
28 on the highway.

29 (12) Section 23222, relating to driving while possessing an open
30 alcoholic beverage container.

31 (13) Section 23223, relating to being in a vehicle on the highway
32 while possessing an open alcoholic beverage container.

33 (14) Section 23224, relating to being a driver or passenger under
34 21 years of age possessing an open alcoholic beverage container.

35 (15) Section 23225, relating to being the owner or driver of a
36 vehicle in which there is an open alcoholic beverage container.

37 (16) Section 23226, relating to being a passenger in a vehicle
38 in which there is an open alcoholic beverage container.

1 (c) This section applies only when traffic controls or warning
2 signs have been placed pursuant to Section 97 or 97.1 of the Streets
3 and Highways Code.

4 (d) (1) Notwithstanding any other provision of law, the
5 enhanced fine imposed pursuant to this section shall be based only
6 on the base fine imposed for the underlying offense and shall not
7 include any other enhancements imposed pursuant to law.

8 (2) Notwithstanding any other provision of law, any additional
9 penalty, forfeiture, or assessment imposed by any other statute
10 shall be based on the amount of the base fine before enhancement
11 or doubling and shall not be based on the amount of the enhanced
12 fine imposed pursuant to this section.

13 SEC. 7. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.